

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

STENIO and RAQUEL DESOUSA,

Plaintiffs,

V.

**J.N. CARPENTRY, INC., et al.,**

Defendants,

V.

**SEGOES CARPENTRY, INC., FAIAO  
CONSTRUCTION, INC., and LAYNE  
THOMAS BUILDERS, INC.,**

### Third Party Defendants.

CIVIL ACTION NO. 05-787

### THIRD-PARTY COMPLAINT

Defendant/Third Party Plaintiff, J.N. Carpentry, Inc., by and through its attorneys, files this Third Party Complaint against the Third Party Defendants Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., and in support thereof, avers as follows:

1. Defendant/Third Party Plaintiff J.N. Carpentry, Inc. (referred to hereinafter as Third Party Plaintiff) is a New Jersey Corporation with its principal place of business at 108 Grant Street, Riverside, New Jersey, 08075.

2. Upon information and belief, Third Party Defendant, Faiao Construction, Inc., is a business entity with a registered office at 3001 Rte. 130 South, Apt. 55K, Delran, New Jersey, 08075.

3. Upon information and belief, Third Party Defendant, Layne Thomas Builders, Inc., is a Delaware corporation, with a principal place of business at 120 West Market Street, Suite B, Wilmington, Delaware, 19804.

4. Upon information and belief, Third Party Defendant, Segoes Carpentry, Inc., is a business with a principal place of business at 106 Grant Street, Riverside, New Jersey 08074

5. Upon information and belief, this incident arose out of a construction site accident which allegedly occurred on or about November 17, 2003, at or near 100 Cindy Drive, Newark, Delaware 19702.

6. In their Complaint, Plaintiffs, Stenio and Raquel DeSouza, assert that various acts of negligence on the part of this Third Party Plaintiff were the proximate cause of Plaintiffs' alleged injuries. See attached Exhibit "A."

7. This Third Party Plaintiff has filed an Answer to Plaintiffs' Complaint, denying all allegations of negligence. See attached Exhibit "B."

8. On or about November 17, 2003, the Third Party Defendants, Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., were contractors and/or subcontractors working on the construction project where Plaintiff Stenio DeSouza alleges he was injured, which is the subject of this litigation.

9. If the allegations in the Plaintiffs' Complaint are established and proven at trial, those allegations being specifically denied by this Third Party Plaintiff, then any damages alleged to have been sustained by the Plaintiffs were caused in whole or in part by the fault, negligence, and/or carelessness, and/or breach of contract of the Third Party Defendants Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., and without any

fault or negligence of Third Party Plaintiff, and, therefore, the Plaintiffs should recover such damages directly from those Third Party Defendants.

10. As a result of the foregoing and/or contractual indemnification provisions, this Third Party Plaintiff is entitled to recovery from, and against the Third Party Defendants, Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., by way of indemnification and/or contribution, and as damages for breach of contract, for all sums as may be adjudicated and/or awarded against this Third Party Plaintiff, as well as counsel fees and expenses.

**WHEREFORE**, this Third Party Plaintiff asserts that the Third Party Defendants Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., are solely liable to the Plaintiffs; jointly and/or severally liable to the Plaintiffs; and/or liable over to this Third Party Plaintiff by way of contribution and/or indemnity, and demands judgment in its favor, together with all recoverable fees, costs and expenses.

### **COUNT I - CONTRIBUTION**

#### **J.N. Carpentry, Inc. v. Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc.**

11. This Third Party Plaintiff, hereby incorporates by reference paragraphs 1-10 of its Third Party Complaint as though set forth herein at length.

12. The carelessness, recklessness and/or negligence of the Third Party Defendants Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., was the proximate cause of any injuries allegedly sustained by the Plaintiffs with regard to the incident in question.

13. As a result of the aforesaid carelessness, recklessness and/or negligence of the Third Party Defendants, Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., those Third Party Defendants are liable over to this Third Party Plaintiff, by way of contribution for any damages imposed upon this Third Party Plaintiff with respect to the Plaintiffs' present cause of action.

**WHEREFORE**, this Third Party Plaintiff asserts that the Third Party Defendants Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., are liable to this Third Party Plaintiff by way of contribution or indemnity, and demand judgment in its favor, together with all recoverable fees, costs and expenses.

## **COUNT II - INDEMNIFICATION**

### **J.N. Carpentry v. Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc.**

14. This Third Party Plaintiff, hereby incorporates by reference paragraphs 1-13 of its Third Party Complaint as though set forth herein at length.

15. The carelessness, recklessness and/or negligence of Third Party Defendants Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., was the proximate cause of any injuries allegedly sustained by the Plaintiffs with regard to the incident in question.

16. As a result of the aforesaid carelessness, recklessness and/or negligence of Additional Defendants, the Third Party Defendants are liable over to the Third Party Plaintiff, by way of indemnification, under Common Law and/or pursuant to the terms of any applicable contracts, for any damages imposed upon the Third Party Plaintiff with respect to the Plaintiffs' present cause of action.

WHEREFORE, this Third Party Plaintiff asserts that the Third Party Defendants Segoes Carpentry, Inc., Faiao Construction, Inc., and Layne Thomas Builders, Inc., are liable to Third Party Plaintiff for contribution or indemnity, and demand judgment in its favor, together with all recoverable costs, fees and expenses.

Respectfully submitted,

WRIGHT & O'DONNELL, P.C.

**/s/ George T. McCool, Jr.**

George T. McCool, Jr.  
Admitted Pro Hac Vice  
15 East Ridge Pike, Suit 570  
Conshohocken, PA 19428  
Telephone: (610) 940-4092  
E-mail: [gmccool@wright-odonnell.com](mailto:gmccool@wright-odonnell.com)

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

**/s/ Armand J. Della Porta**

Armand J. Della Porta, Esquire  
Delaware ID No. 2861  
Eric S. Thompson, Esquire  
Delaware ID No. 4633  
1220 North Market Street  
Post Office Box 8888  
Wilmington, DE 19899  
Telephone: (302) 552-4323  
E-mail: [ajdellaporta@mdwgcg.com](mailto:ajdellaporta@mdwgcg.com)

Attorneys for Defendant/Third Party  
Plaintiff, J.N. Carpentry, Inc.

Dated: March 30, 2007

\\15\_A\LIAB\AJDELLAPORTA\LLPG\418953\LAREFNER\15000\15000

**CERTIFICATE OF SERVICE**

I, George T. McCool, Jr., hereby certify that a true and correct copy of the foregoing Third-Party Complaint was served on this 30th day of March 2007, upon the below listed counsel of record via electronic filing and/or regular mail:

Gary W. Aber, Esquire  
Aber, Goldlust, Baker & Over  
First Federal Plaza, Suite 600  
P.O. Box 1675  
Wilmington, DE 19899  
*Counsel for Plaintiffs*

Arthur Bugay, Esquire  
Galfand Berger, LLP  
1818 Market Street, Suite 1818  
Philadelphia, PA 19103  
*Counsel for Plaintiffs*

Norman H. Brooks, Jr., Esquire  
Marks, O'Neill, O'Brien & Courtney, P.C.  
913 North Market Street, Suite 800  
Wilmington, DE 19801  
*Counsel for Defendants Pettinaro Construction Co., Inc.,  
Pettinaro & Associates, Inc., Pettinaro Enterprises,  
Pettinaro Enterprises LLC and Pettinaro Relocation LLC*

Paul Cottrell, Esquire  
Tighe, Cottrell & Logan, P.A.  
First Federal Plaza, Suite 500  
P.O. Box 1031  
Wilmington, DE 19899  
*Counsel for Landmark Engineering, Inc.*

Robert Daniel Ardizzi, Esquire  
Davis, Bucco & Ardizzi  
2 North Colonial Avenue  
Elsmere, DE 19805  
*Counsel for Landmark Engineering, Inc.*

Armand J. Della Porta, Jr.  
Eric S. Thompson, Esquire  
Marshall, Dennehey, Warner, Coleman & Goggin  
1220 North Market Street  
P.O. Box 8888  
Wilmington, DE 19899  
*Local Counsel for J.N. Carpentry, Inc.*

Jeffrey K. Martin  
Margolis Edelstein  
1509 Gilpin Avenue  
Wilmington, DE 19806  
*Counsel for U.S. Construction Inc. a/k/a U.S. Construction  
a/k/a U.S. Construction LLC*

Brian J. Chapman, Esquire  
Kent & McBride, P.C.  
1105 Market Street, Suite 500  
Wilmington, DE 19801  
*Counsel for Mid-Atlantic Realty and Queensbury Village*

/s/ George T. McCool, Jr.  
George T. McCool, Jr.

DATED: March 30, 2007

\\15\_A\LIAB\AJDELLAPORTA\LLPG\418953\LAREFNER\15000\15000